



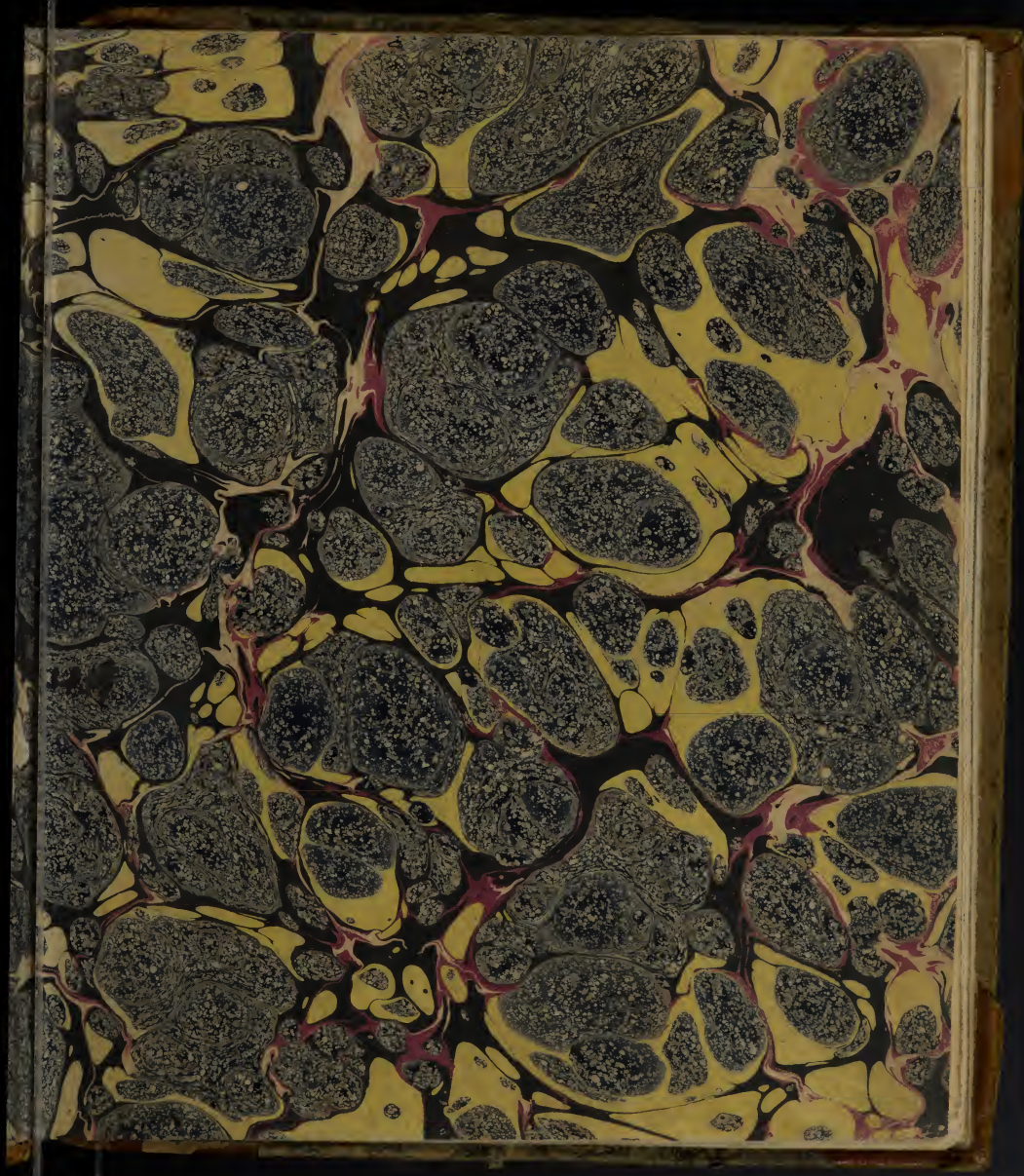
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Mr. Chauncey S. Goodrich

Feb. 23, 1931



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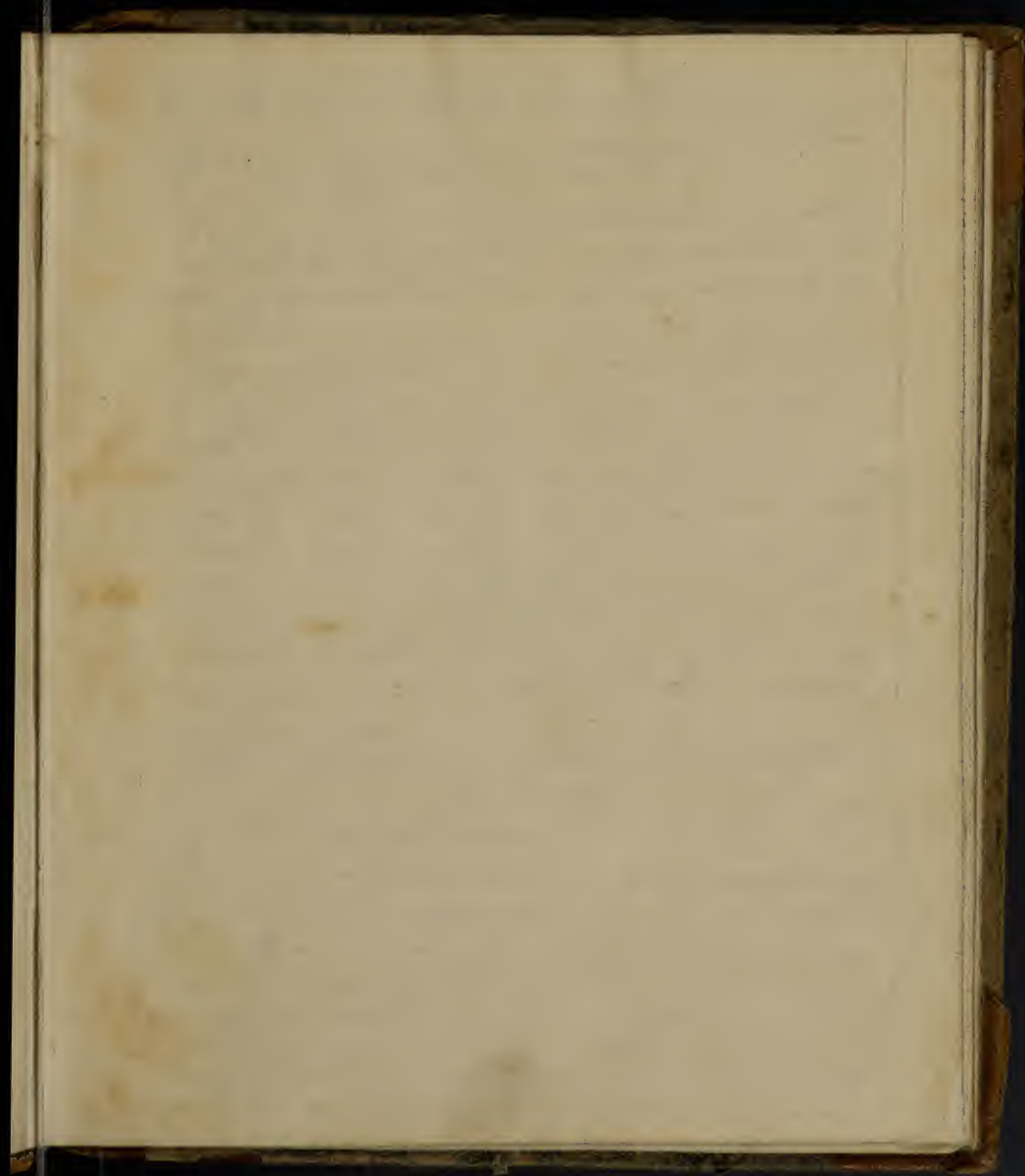
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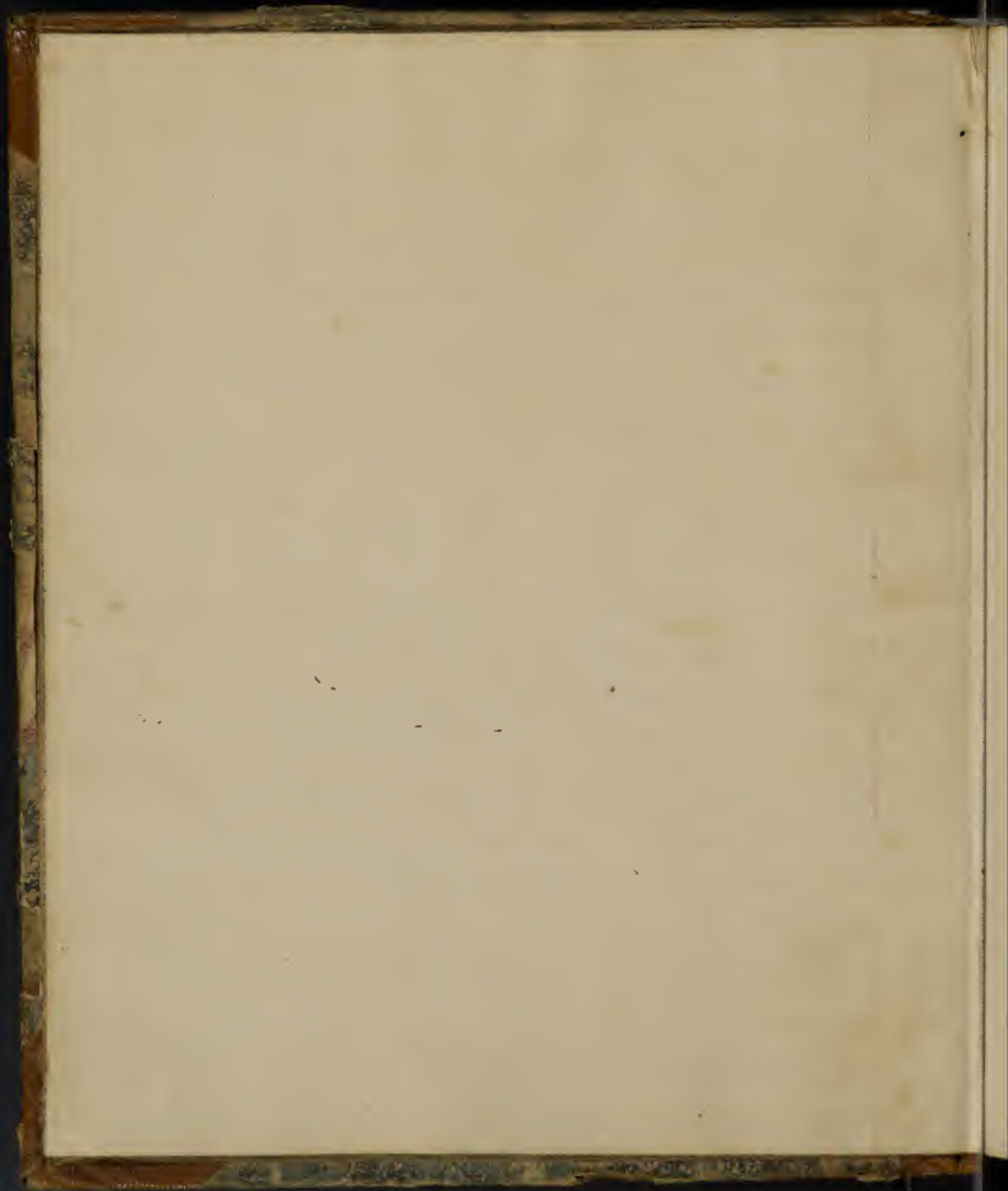
The notes on Chemistry are in the handwriting
of Chauncy Allen Goodrich, Y.C. 1810, later
for 40-odd years professor in the college and
the Divinity school. Doubtless the lecturer
was the first Silliman.

Chauncy S. Goodrich, '64

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Criminal Law by Judge Reeves.

General observations - notice, what it is, Common Law and how altered by Statute -

A crime is an act committing some deed which the law forbids or denetting some thing which the law commands to be done -

Misdemeanor in common parlance means something less than a crime - difficult to define it - misdemeanors are novel and therefore not punished by Common law - An attempt to commit a crime which involves in it some violence to the person or to society is a high standard misdemeanor - The punishment of misdemeanors is left to the discretion of the judges - - - - -

When Statute forbids a crime without annexing a penalty is a misdemeanor or it common law.

In most crimes there is a private wrong for which the criminal may be punished. There are crimes for which no action can be brought for the civil wrongs merged in the public wrong.

A party ought not to recover vindictive damages in civil suits for a public wrong may prosecute and the criminal

be fined or punished too much - It is com-
mon in courts to say that this aim is
contrary to the peace of society and this
two in civil suits - but this should not
be done - for the public should prosecute
for breach of the peace and the private
man should only sue for personal
injury -

The reason of merging is this - it
happened only in places where
all the goods and chattels are for
seizure and if the private person
should prosecute for private in-
jury he can recover nothing
as all is forfeited -

but you can get his body & re-
store his body is to be restored - thus
it only amounted when every person
was punished with death and
forfeiture of goods and chattels -
but this will not apply to this
country - for if a man commits
injury in this state he is sent
to Newgate - while he has prop-
erty enough to pay damages -
If this matter was brought up in
the old Scotch courts I think it would
be decided different from the English
law.

Two kinds of Manners - Mala in Se
and Mala Prohibita.

The non differs as to them two
such offences as would be a crime
before society was incorporated
are Mala in Se - all writers agree
in this who have treated upon these
offences.

Mala Prohibita are merely pos-
itive regulations.

Some cases seem to partake of both
etc per instance theft this is contrary
to the moral sense of society
as well as contrary to the laws of
society but theft are generally
included among names of mala
in Se (Cicero, Justin, &c.)

Some say they are not bound to punish
mala Prohibita if they have not
consented to such laws. but this
is false action.

The design of punishment is to deter
others from committing the same
crime and not as a compensation
to the private individual.

Punishment is not the most
effective. Newgate is better than
hanging for burglary.

Can a man be justified in breaking laws
merely, viola prohibited aspects of
mountain on ~~the~~ side and some
the others -

Where law is made to raise money
be penalties it may be justified
I think - as compelling people
to buy their bread in wollen cloth
to make their cloth sell better -

Swaggi never thinks me on
behind in pro convenience to
keep it sense of society - ie
then which our max. prohibition
vicines which are punished
by common ^{law} ~~the~~ sometimes af-
firmed by Statutes and some-
times a new and greater penalty
is added - But then statute the
not for we take on in respect
of Statute - A question I may
be invited ~~not~~ upon either I
you may know your remedy.

When the Statute Law is less ~~than~~
the Penal the than the Common law
the Common law is thereby upheld.
To constitute a crime tis said
there must be ^{with} a will and in act
by will is meant a will and in
the constitution of a hundred trading

If a man commits a crime & hath a London
is unlawful but he did not intend a
commit such ~~crime~~ ^{act} to, not a crime -
To attempt a crime unlawful is an
offence - & to attempt a murder is
a misdemeanor & which is a crime
There are cases in Law a man is com-
pelled by coercion. and he is excused.
Not liable in the following cases viz
1 Defect of understanding
2 Unconscious without will
3 Compelled by coercion

1 as to want of understanding
this does not apply to persons
of weak understanding in the
other the distinction is - there must
be such a defect that the supposed
criminal is not capable of distin-
guishing between right and wrong.
A man under partial derangement
is excused in some under the weak
defect of mind - but no other time -
as to infancy - the law presumes
and evidence cannot be admitted
to ^{show} ~~that~~ contain that a child under 7 years
not commit - from 7 to 14 years it
is doubtful - and depends upon

on ^{the} ~~the~~ matter can be be discovered -
But show I do this presumption is
evidence by removed -

one at 8 years old was punished
with death for larceny -
one at 9 was punished for murder -

Lunatics and mad men are excused

A man deprived of his reason
by excessive drinking is not
excused - this arises from policy -
but he is debauched and degraded
excused - a man who has brought
upon himself ruin by drinking
is excused - It has its
foundation upon policy -

At this was permitted a man
would not get drunk or a h.
parently or and then take revenge

See 2^d April 21st 1812th - Judge Keene -
Wishes binding without will -

If a man is doing some unlawful
thing and, ask something which
happens in consequence of it
in such is unlawful this cannot
be excused - but if the thing was
lawful then it would not might

be caused-

The civil law makes this distinction-

The accident must be permitted
to the man, in which the commission
of the unlawful act would be
Carelessness will make a man
liable as if a man in a city build-
ing a stone house and should let
a stone fall from the scaffold
on purpose and kill a man this
would be murder or manslaughter
but if the house was building
in the country the case would
be different-

The rule is, the man must use
due diligence and need not
use extraordinary diligence-

A man attempts to ~~steal~~ a man
putting into a house and tells his wife he
has stolen-

B Cases of Compulsory con-

in which the person is not guilty-
the man committing the crime
is a mere machine in many cases
Can. in ~~cases~~ ^{common} so acts no person
under this compulsion ^{is induced} except the
wife to her husband-the account
or child is not induced when the
mother is ~~induced~~ ^{induced} to do it

commands them to commit an uncharitable
murder. This intends to incite
Malala, Pri, Lebita & Pri to commit
portables of the mala in se as in
the 1st.

16 years of Completion -

1. When conquered people are forced to supply their enemies with provisions & which is treason but not in this case. as in all cases of this kind when they are forced to submit on account of superior force. Can a man other to satisfy duty? It is contrary to the notions of society to admit it - but in no conscience it is justifiable -

Sum of and Access^{ry}

As ^{one} ~~the~~ names told on no ones
over his treason

Prinicipae is the Superintendent of
the Fleet and is present ording
and settling - He must indigally
pursue - He is present it is

not necessarily. Person should
be in sight. he may be watching
and on both.

Rule 15 Prohibition
105

A man need not absolutely
present at the time of committing
the act - is in driving seat -

Necessory two kinds -
before the fact and after
the fact -

Necessary before the fact is
not present but he is at
one or gets it done ~~before~~
some way or other. Though
a man who advises is liable
for whatever is done - yet the
necessory is not liable in all cases
or principles - it commands
to beat C - to beat O to death -
now it is not liable for he ad-
vised him to do something
which might be useful in a
few minutes -

But if it occurs to beat C and
to rob A. it is not liable.

but it does not accomplish
object any more it becomes
in viable if it is to be
C and he goes on him the bill
necessary after the fact

The officers does not know
of the fact before it is committed.
This is done by constructive
criminals or giving them some
assistance to screen them from
justice

Hale 018 2 Hunt 310

Hale 018 2 Hunt 310

To make an necessary the
same must be committed before
the necessary given assistance
As it is before C. and A gives
A protection before C acts
he will be is not necessary
after the fact.

The rule may protect. See Hunt 310

2 Hunt 310 Hale 018

An some cases is more likely
an approval than can be no neces-
sary before the fact because the
grows out of the occasion

In any case Principle is punished
more severely than the deceit;
A man by whom an error can be
be tried ~~the~~ as accessory
until the Principle is tried and
condemned as guilty
of more evil than that as Principle
may be tried as Principle accessory
if found not guilty of the fact

1 Male 025 Esch 207

Many things must be done more
and to make them virtues -
What is motive?

There may be Motive without
evil - a man may murder
his best friend for money &
this is malicious -

In common parlance Motive means
 hatred or enmity -

Motive or maliciousness

when the intention or motive
is a base one then is legal motive
There must be premeditation in such
motive -

The unscrupulous heart must be con-
sidered - Of a school master
whips a boy with a cane upon

that he would not be guilty of
murder if he kills himself
to his a pair of lungs and
beats him to death - there is
murder but for there is an uncooled
heart -

A child is playing in the
street and a man runs over him suddenly
this is not murder - but if a little boy is ~~running~~
lying upon the road and the man should ~~run~~
over him he is guilty of the way and ~~run~~
I am a long way and he is a long way
on the heart -

It is long in England means
that some noble goods are
and more forgotten in which
case the ~~criminal~~ ~~are~~ ~~the~~
death with benefit of the
clergy -

In this country we have retained
the name but not given to
the crime the same punishment -
that is crimes which
involve murder have one with
murder ~~plenty~~ but there is no
forgiveness as in England -

Arson as it is at corn law and law by Arson
Statute of 1832 - and malicious
Arson is the willful burning
the house of another

1 March 1834
Does burning out houses com-
prehend arson? then being
not houses -

Burning some of them which
endanger by their inflamma-
tion the house is arson -

The corn law has been extended
to comprehend burning houses
in the fields - A burning
box in stacks is arson by
the act with law

1834, 20th Dec 20th
1834, 10th Nov
The law must be house of another
else a corn law is not arson
but by statute of 1832, fire
to his own house for the pur-
pose of burning his neighbours
houses this is Arson - But
simply burning his own house
is not arson
17th Nov 1834

Lesson If a lease sit in to the house then
to him during the lease he is
not ^{guilty of an offence} ~~guilty of an offence~~
but this is the result of pure
upheld per though it is his
own house it is his another
also

But if a reversioner burns
a house which is in possession
of the lease and which will
soon revert to him that is
a treason -

The house must be burnt.
How much?

The least possible burning
if done with a malicious
intent - 1 Hawk 1088, b. c. 21

The manner must be maliciously
done - and so voluntary &
carelessness will excuse
a man - 1 Cow 245

The house it is not treason unless
the house is 10 years old - the common
law does not require
burning any house (fire insurance)
is also in this. The law is the same
in every case -

^{By} ~~By~~ Punishment By Com Law is
death without benefit of Clergy
By our Law under certain
circumstances it is death if
given on indictment thereby
attaining the commission may
be punished for misdemeanor
and sent to Newgate.

Burglar
is the breaking open & dwelling
house in the night maliciously
for the purpose of committing
felony - 1 How 159

- 1. Breaking open (with night)
- 2. Place - mens domus.
- 3. Intent to commit felony.
- 4. the manner of breaking

1. The night is not a
anciently said the night was
mens. a sun set. but now
if the act is committed in the

Being
lost
over so right that you might discern
the face of the luminous L

This does not intend to moon
light - 76025 33' more 100

TL place a mansion house

18th
100
C. 10
212
583

at Corn town - The place where
some person sleeps - but if the
building is so near that the
breaking of it open is such,
the property is being taken at
Corn town -

To break open a shop is
not at Corn town!

To break open a church is
being taken (in exception)
for the C. L. says that it is
"monsieo dei" 1800 100

Of a house is a matter of fact
the year is under the defini-
tion & yes - and it is being taken
to break it open - because

the property is protected as
well as the peace of the community -
but if the house is empty of
property - then being taken
thunk it would not be being taken

Prop. 12

x 24" 1802 100 471

3 The manner. breaking it open -
What is breaking it open?

The house must be shut up -
then raising a latch or high stone
a wind of 2 Houd 100 is sufficient
To descend down the Chimney
is breaking open - in this cannot
be shut up 1 Houd 100

Produce our low breaking open,
a stop is being made.

Heb 52.55 "Cot 20"

Cot 20 55 "225"

Any fraud by which a man
gets in it breaking and on the
Pacific nations.

When a man knocks and then
the door being open makes in
this is ~~the~~ burglary -
To take a sword, sword and
and get it by that means is the
same -

Breaking then is getting in by
lifting a latch.

There must be an entry

What is an entry? a man has one
put over the door - this is an
entry.

<sup>Can
open
key.</sup> So if a man enters on an instrument
or lock to get goods & the
burglary.

A person got a false key -
and then the door - he had
broken the lock - but not en-
tered - was he guilty? yes
for the key (an instrument) was within
the house (telling).

Slide 8th 180th

A ^{man} who keeps the watch is also
guilty while telling (11th) the
other is breaking open the door
is burglary -

A person without may also
break & open - to let in another
person without. ^{is guilty} Slide 8 & 9

d. The Intent to Commit a felony

Any other intent will not
make burglary -

A black felon broke open a house
to sleep with a black girl -
this was not burglary -

Slide 5th 180th 28th
Slide 10th

In Con a Shop with goods - is
broken open and is Burglary -
The pockets ~~steals~~ ^{steals} over the cabin -
It was so decided by the super-
ior Court -

Punishment by English
Law is Death

In Con ~~Warrant~~ ^{Warrant} 3 years
for first offense 2 years
for second - 3 years for life -
It must be indictment
shown to have been ~~committed~~
2 or 3 years also if a man
is prosecuted for burglary and the
Attorney Gen does not mention
it being the second offense when
in fact it is the first offense will
be prosecuted for the first offense
with imprisonment in Va at
3 years

Per
jury

Perjury - is a willful false
swearing upon some material
point under oath
given by some person qual-
ified to give the same in some
court of justice.

It must have been willful
of by mistake or carelessness
the person is ~~not~~ excused.
Though the fact is false this
is not sufficient for ac-
tuses disagree materially
yet this is not always Perjury

5 Ind 358 10 Ind 145

1 Ind 513 11 Ind 314

It must be relation to some pec-
cious in a court of justice
It need not be in a court of justice
a declaration taken before justice
on some case before court - but may
be perjury - 12 Ind 314

The intent need not be a constant
mood - so said anciently - but
now overruled by modern decisions.
(before a declaration or Court of Chancery)

Affidavits of a private nature cannot con-
vict a man of perjury.

Promissory oaths are not perjury -
though under a great solemnity
of conscience. 1 Hen B 146

Is perjury made the oath to prosecute
all offences still if they do
not so prosecute this is not
perjury though it is made
malum

Crook Elia 10 B 1007

1851 819 1 Pro 1346

2 Pro 1257 118

The Lawfully authority must
be administered legally.

1 Hen 322

A Court has no jurisdiction
and administration of oaths is
the person guilty if he fals-
ifies - Strode Rem 12th
he is guilty of perjury -

1 Denton 181

Sometimes the party is admitted
to testify and then the party may
perjure himself as well as a witness.

Puzzling - A swearing must be false
If the fact really is true which
the man swears to yet if he
did not know it at the time
he is guilty ~~of it~~ if he thought
it was not true

Item 222 1 March 1822.

Some say it must be absolute
not conditional - as I believe
it - yet this may be puzzling.

It must be in a point material
All the other things will not
constitute puzzling if this is
wanting -

If a man seems it material when
it ~~is~~ is not is this puzzling -
Judge Reeves thinks it would.

A says to ride by on a white
horse when he knew it rode by
on a black horse - this might be
puzzling -

Crook 21st 500
Folk 5 10th 1st 22nd
Polmer 3 8th 1st 22nd

By a joint material is not meant ^{specific}
Such a fact is ^{itself} of itself
is to establish a ~~fact~~ dispute but a
contribution to establish the fact

Los Angeles 15th 1889

Subornation of Perjury is the
procuring another person to perjure
himself - the punishment is the same
as of Perjury.

The old ~~former~~ punishment was
death - next penitentiary and
hardening on of stones - note of Const
that it is ^{Section 8} imprisonment at
the discretion of the court and
an inclusion of testifying in
any court as witness -

By Statute it is ^{at of fine} forty pounds - and
may be sent to the Pillory, or lancets
for 7 years.

An Con - like Am law is pen and im-
prisonment - and removal may be
recovery - and included from testifying.

April 23rd 1812

London

Forgery

Has been intended by English Stat
and ours also - though the nature
of the crime is not altered -

"The fraudulent making or
altering any ^{written} record for any other
motive of public authenticity or
value &c - 1 How 385 is forgery

It must be master of record -

1 This refers to manner of writing -
2 Master of public authenticity
records of public records and records
of births of children &c -

1 How 388

3 Deeds and Wills - then are
private nature - Said in all
all kinds of deeds & testaments.
This forgery may consist in
in altering or making
in all certificates then there is
not forgery as Common Law 24 of 355

1 How 388
1 How 385

There may be forgery without making
in all my six by intabining See
page
10

Moore's 5. 6. 5. 1

1 How 337

If a man writes another's name
on a piece of paper and fills it up with
a bond & this is forgery

3 Moore's 5. 6. 5. 1

A man who has a fraudulent intention
if there is no benefit accruing to one
man injury to the other there can be no
forgery (if I understood right).

If a man alters his own writing on
an immaterial point he can not re-
cover upon the instrument as im-
material altered.

Moore's 5. 5. 1

A man writing a will for another in-
serts a bequest for his friend without
the request of the testator is guilty
of forgery.

But if a man omits & inserts a legacy
when obliged to do so - accident not to
be forgery - Judge thinks it should be
for him is an injury. for the will has
a different operation.

1 How 337

Statutes of the U.S. is positively now
extended it to almost every case
In Con. ^{almost} everything is ~~now~~
mentioned and then the next
case shows ^{follows} any writing what-
ever to prevent the execution of
justice -

The law on punishment
was silly and imprisonment
and fine and sometimes death
In Con the punishment is
penitentiary.

Robbery

Robbery

Rob
ery

Always includes in it stealing.

Is a planing and violent taking away from another his property or goods by putting him in fear. No matter how ^{valuable of} the property "putting in fear" need not be mentioned in the indictment to be infirm. 1 Howard 1047

It must be felonious. such as would be a felony in England

It must be violently taken.

That is taken is some robbery often. 1 Howard 1047

This can never be purged by any means whatever.

A man B and demands his money B tells him he will give him the money but wishes him to return him a certain parcel which contains it and A gives B the parcel to empty it out for himself at that time he is taken by officers - is B guilty of robbery? yes given for the money - yes. B is not

But if the other is attempting to
get out but does not succeed & then
he is taken by officers - this is not
robbery - but a high misdemeanor -
Sept 128

All persons aiding and abetting
are punished as the principal
who perpetrated the crime
Sept 128

Taken must be from the person.
The property need not be attached
to the person immediately or af-
fairs from the decision

A master & and tells B to return to him
his horse in that lot and he at the
time - this taking property B.

Sept 128

Sept 128

His act may must be in uncon-
sciousness of fear -

Fear is always to be presumed
the contrary must be shown -
Sept 128

When A told B if he did not let him
have a certain sum of money he would

First Theft

I mean some crime against him. ^{which} ~~the~~ ^{the} robbery - for he is poor -

But here when A claims property
is B's land - and tells B if B does
not deliver up his property he
would beat him. It was not told
to be robbery - there are conflicting claims
Robbery 10

A meets B walking in the street and ~~thrusts~~
knows he is his hat and runs away
with it. It is not robbery for him is not poor -

Robbery is punished with death
without benefit of Clergy - about 12

When 10

Then the Criminal must go to Pen-
itentiary - for second offence for life -

Theft does not properly include
theft under larceny

Larceny is simple or
compound.

Simple larceny is of two kinds,
Grand and Petit the latter is

2. ^{Lat.} ^{cont.} ~~noting over~~ and a 12th the former
 is the same over both sum -
 The price often hangs in the air at
 10 1/2 when the value is more
 falling & -

nothing is to be taken from his person or house

How late!

2 I must be fraudulent - that is
with a bad intention - a man
may take away the goods of an
other without stealing -

When an article is lent to another for his benefit and then goes off with it this is not lending but it borrows it and with impersonal of stealing and consumes this is stealing with or without the benefit for non animus jurandi.

^{Larceny}
Case of bailment of stock - A man went
into a shop to look at some stockings, and told
the seller he was going with the hawker to be
shaved and wash his nose & I saw in
a pair of socks - the merchant's gear
of soap - and the prisoner took them
and ran off - he was guilty of larceny -
the principle here was that he stole
the goods out of the custody of bailment

The distinction is this if this
was *animus furandi* at the time of
bailment here is larceny. but if
the *animus furandi* occurs after
words this is not larceny.

St Lord 135^b

When there is a bailment for the benefit
of the bailor not of the bailee - don't it
matter whether there can be theft?

When there is bailment for the benefit
of the bailee and the goods are stolen with
animus furandi here is larceny.

This is the current authorities -

But it is said that here is no un-
lawful taking - I think it is for the
bailment only changes the holder but
not the possession of the goods & the larceny is

away -

But if the ¹ party or parties annex a part of
the property this is the 2^d -

As in the case of Caddes or Muller
if they take part and not whole an.
themselves -

Leach Press Pittsbury

There is no reason in the above
order says Judge Pierce.

All A stock from B- and C stock
from B- A may recover it from
B- and the indictment mentions
that C stock from B- is sold as per
1 Nov 1861

1 Hen L 130")

Enactments for offences are
local in the same State and Counties

As said that starting farms on
inception - so of course -

I shall a horse in New London and
hissen through Attfield. He
may be manifested in Attfield
for the new songs he sings all in new
language. Therefore there is not an
exception. He must not have

The house where he goes -
The case is the same in facts if not
in one County and continued there
another, the Summons may be tried
in either County.

3 The must be working away
What is working away -
Any motion of the goods of
the goods from their place -
A man stealing books had taken
them out of our chest and
laid them on the floor. This
was taking and working away -
As a man shearing wool from
the sheep back and had not
removed it this was carrying
away -
A man took a bag of goods
and rolled it up on end. This
was this carrying away. &
The court said not -

Do a man at the theatre snatched an
earring from the Lady's ear and
sold it in her house without theft.

1. Law 14.1 1.11.1 318
This robbery & carrying away is for
any person so said.

A wife may take away the Jew
could probably of her husband.

1.11.1 318
If a wife gives personal prop-
erty to another and to her
husband and as on her side
there is nothing if the wife
wifes possession is the possession
of her husband and takes
from her is taking from her
husband.

For person in marriage may
take so said.

If a man of the personal
goods that on carried away
at man takes complement or apparel
in on or hand is not theft.

^{new}
But if the apples were under the tree
or the owner was not then this
would be a theft -

But if a shakes off apples one
day ~~own~~ and carries them over
the same day this is ~~not~~ ^{not} a
violation - but if the apples
when shaken off one day and
taken next day this is theft - ~~or~~
in other cases mutuatis mutan-
dis -

1 Nov 141 Para 81, Cent 180
2 At 110 41

To take and carry away a horse in
action is not theft. Cent 180
There are no temptations to steal
from them as there are no benefits
to any one but the owner
But when a horse is taken
in a stable this reason does
not exist and the State has
been made a law by which it has
to be theft. 1 Nov 141 & 383

Thou shalt not be committed upon
mistakes of law. as does our code
§ 8 - But if the creation is benefi-
cial to ^{the} owner for his support -
then this would not hold -
7 Oct 88

With respect to fishing there is
^{no doubt} a right to fish in many cases.
But to limit them is a trespass
upon a right and not theft.
But if a man takes fish from
another's garden & this
may be theft.

March 14th - 1888

A man may steal his own goods
e.g. if a man has a cow and the cow
has to make and take them away
again this is stealing.

Chas. H. 535 March 14th 1888

Having - Stealing from the owner
and from the thief. The owner
pursues ~~the~~ apply but the law
is taken in one case
than the other -

The benefit of the Slavery was extended
to females by Stat of June -

Slavery,

Every species of robbery ^{as}
theft & which would amount
to Slavery on board, & sell
is piracy

1 Nov 1542 W. Wood

It matters not whether it be
done with violence or by fines
or rewards.

This is, permitted by the laws
of all civilized States.

If a State permits of this it is not
Piracy in the jurisdiction of the other States.

At Com law. the merchant is made
to be before the Admiralty Court
without fine -

But the English mode is worse
as even in the minor cases
fine is a convicted morality. 18.10.

Law! Is piracy tried by our Admiralty
courts or before the courts of common
Law?

riot

Crimes which involve in them
breaches of the peace -

1 Offence of a Riot -

difficult to define it -

It is a disturbance of the peace
by 3 or more persons assembled
together of their own head for
the purpose of assisting each
other against those who oppose
them -

1 Hawk 243

1 It must be a disturbance of the
peace -

2 It must be by 3 or more persons

Two persons cannot commit a riot

3 They must assemble of their head
to assist each other against those
who oppose them -

"of their own head" means not
obeying the lawful authority

They need not assemble the full purpose
of trying to offend or commit the riot but to do so

by 4 & 4 2 Hawk 243 Pratt & C, 12th 512 measures
they make
the
purpose

It must be to ~~with~~ some ~~end~~ ^{purpose} of a private nature and

It must ^{be} actually executed -

If it is against ^{the} further ^{exercise} of this is not a riot -

If there is a meeting at temptation then this is only an unlawful assembly -

O ^{Shannon 1884 Nov 29 5} Shannon 1884 Nov 29 5

It must do it with violence. If this is in spite of the law only this is not a riot -

And the violence must inspire terror though terror is not sufficient if it appears from the antea Wood 1884 Nov 29 5

Wood 1884 Nov 29 5

It is immaterial whether it is supposed to be compel or coercive

If it is opposed quies upon his under he may not leave a force to assist him; ^{to go on} though his entry is lawful -

If the assembly was by authority and after being assembled they commit a riot the law is broken -

Riot

All offences which are necessary to constitute a riot are necessary to constitute ^{the Court} ~~the~~ riot is merely an attempt.

The punishment at Com. law is the same - The Court has been the power to set the criminal in the pillory in extraordinary cases.

In an indictment of a riot if every thing is made out except the intention of it, may justify a judgment of a riot.

If the persons are indicted, in a riot and 2 are found a guilt by they are usually dismissed for the Com requires 3 persons at least.

Unlawful Assembly

An attempt to commit a riot is
an unlawful assembly.

If persons assemble to consult about
committing a riot or rout this is an
unlawful assembly.

1 Hunt 297-9

But there may be an unlawful assembly
without coming together for
the purpose of committing a
riot or rout -

If the assembly is for the pur-
pose of consulting about the
means of redress when the
law forbids this is an unlawful
assembly -

A town may meet to represent their
grievances to Congress by petition
& for this is "constitutional method"
and of course lawful - 4 B.

Edw 445 (M 384)
380

Then on cases where people may assemble
to defend a man from some ^{wrong} action

which they are put is to be offered
to him - 5 Code 91

It is the duty of public officers
to command the posse comitatus
to suppress the disturbance -
and they may do so without
a warrant -

Private persons may suppress
the riot &c. but they cannot com-
mand the posse comitatus -

P. A. 121

Force and imprisonment is disre-
economy with it under all the
cases -

We have a Statute before James
the Government -

An Affair -

This differs not from a battle
except that it must be done upon
some public day or occasion -

The reason is because the violence
frightens people on other times

But suppose the persons are not
frightened and then the end does not
hold -

We have a singular Article begin-
ning thus "whoever disturbs the
peace by tumultuous and disorderly
carriage -

Money as a crime

At Com. low no interest might be
taken - if so communication was the
consequence of transgression -

Money at Com. low would not avoid
an obligation -

40 per cent of Jewish interest
not permitted with perfection
of goods and chattels -

Stat of Hen 8th says not more
than 10 per cent may be taken -

Stat ~~of Hen 8th~~ of Amer. and
it to 8th

Stat of Charles rendered it 80th

Stat of Anne rendered ~~it~~ to 5
per cent when it was three
two kinds of money -

1st When a man incurs more than
5 per cent he is in his obligation.
This is not punishable by law -

2nd A man receives more than legal
interest this makes the crime

nomine

you cannot plead the receiving too much
to avoid the obligation.

The last kind viz the receiving too
much ~~is~~ ^{is} subjects the person
to the penalty of the Statute.

Our Statute makes the sum for just
the value of the sum lent.

The English Statute makes a for-
feiture of 5 times the value.

Lending too much does not relieve the
obligation though it subjects the
person to punishment.

A lender to money but takes too

half gives for a premium.

Or A takes too much - or did he
reserve too much - or both.

Judge Reeve thinks a reserve too
much. Judge Reeves sees another.

He took two gives what made the sum.

lent so much less. But for the

less sum he takes the full interest

for 100 dollars. which is more than

legal interest which is usury.

A man who practices the business
of taking too much interest may
be turned over for good behaved -
April 24. 50

Offences known at Com. Law against
Religion-

Blasphemy - this is not punished by
death - all such offences are pun-
ished as breaches of the peace -

Any person publicly denying the
being of a God (at Com. Law)

Scoffing at Scriptures and revealing
at Religion - this is contemptuously -

The mere sentiments of any man
are not punished as the motions
known to be

The person being in fine and disorderly
conduct - -

Profane Swearing - it must be on
oath upon something or cursing
somebody -

Libel considered as an offence
and not as a ~~civil offence~~ crime -

Libel is the malicious & defaming
another by writing or printing
or by pictures &c. &c. Howbeit -

Libels have a tendency to disturb
the public peace and therefore
may be prosecuted publicly by
the Crown or the Attorney General

There are two distinct kinds of
Libels - one against a private
character and against a public
government - the first kind
is now to be considered -

Libel and Common Scandal
are different - Common Scandal
written would always be Libel
but Common Scandal all Libels are not
Scandal. 2nd ed 1802

The truth may be given in evidence
but can you give your opinion
evidence in trials of a public na-
ture - the Common Law says you

cannot give this in evidence -

But the Com. can ~~not~~ prosecute in
the spirit of the Law - and a time
there may be ~~when~~ ^{when} libel is well as
the Society and I may believe that
the ~~truth~~ ^{truth} cannot be given in evidence in
the ~~present~~ ^{present} prosecution -
The next would have a tendency to bring
into disrespect the Government -

The truth may be given in evidence
in public prosecution -

In private suit for damages the
truth may be given in evidence

3 January libel ~~no~~ teaching vicious

practice, Dr Aristotle and L.C.
the book & must be published

A man reads a libel to his family or
a newspaper - is this public libel &
no says Judge Reeve.

But if the man reads it to the school
town and carries it around from
one place to another. This may be -

Crime of Perjury

As a witness another with ^{needless} lawbait
or showing up people to lawbait
A man must be a common man
Perjuration - for he cannot be
prosecuted -
one or two indictments will not be
sufficient.

But in the second kind one in-
dication will make a man make
But one arrest ~~without~~ his poor
neighbour to assist and
obtain his rights this is not
perjury.

This is an ~~indication~~ considered
as a great crime - and in this
crime as I have said from which
evidence in some cases is
a total destruction of integrity.

The Statute is in affirmation
it can be proved - our Statute says that
it must show above

The barometer may be fixed - and must find societies - and may be cultivated from green & civilized -

2/2 180

Chomperley

This is beyond my conduct

~~What is being up a right without~~
~~in Kuttadot before the [unclear] could [unclear]~~

It encourages education and
appears to the poorer class of
the community

being a bond. I negotiated
not for me but for the party -

But now you may keep
such notes without committing
On infamy -

As the new name is not constituted.
Philadelphia -

at Thornbury - March 5 & 5 -
2. B. 135

March 5 95 -
2 3 5 13 5

Learning up pretended titles

The Com. has bid a man buying
one of the titles in the survey on the
series claiming against the
pretended title.

A person named is here and imper-
iment and sometimes a length
of the above of the land.

To make a loan to another which
he may be B. C. and the
title is not buying is a loan.

to be the in the title is not to part with
the land - the only to the title
the title is added a length of
which could not be in the
by Com. Com.

From Com 80-85

Land 345 545

Cheating is a crime.

Most commonly a private injury and
is remedied by action civil -

Cheating is made by false affirmation.
To say our horse is sound when
he is not and known so this is cheating.
When a man uses no words but
cheats by actions this is a com-
mon offence and may be prosecuted.

False weights and measures -

A goes to B and tells him C
wishes to receive pay to him (B)
500 lbs. Asks him and B says
an even - no - heavier to

12 Nov 1848 B C - 159 (7)

To whom

The punishment of a flight
officer is a fine - though the
many impressions and in some
cases death and just in the
Billows -

Bigamy -

Having two wives - is an
offense at Com law - the latter
is void but this makes no
difference -

The punishment at Com law
was that a man was obliged to
have a large

Adultery - was punished in England
under the same laws - but this
municipal government prevented them
afterwards of causing a general
condemnation in his own cases -

but in this State the Duke's court
was a public jurisdiction
and therefore we have punished
it by Statute

As soon it is punished by a Statute

The criterion here is that one or both
of the parties must be married -

The man is whipped and branded
with the letter A in the fore head -
and must wear a letter around
his neck - if he pulls the letter
off he may be whipped again -

28th.

April

Supposing a person to be of - a lunatic with
severe and permanent impairment of mind - naturally
but if voluntary the person is permitted
the case was punished with the same
severity as the criminal case
would have been

It was common law -

The same rule applied to crimes.
However Statutes regulate this de-
finitely -

Conspiracy to indict a man for an
offense - the punishment was
very singular - if it was murder
the indictors were punished for
murder -

Statutes disallow from being a
jointer possession of goods and chattels
possession of use of land during life
and

Bribery -

A person had by fine and imprisonment -

Bribery of a judge in judicial capacity is punished with death - in common -

Jurors are not considered as acting under judicial capacity -

Homicide-

4 distinct classes of homicide-

1 Justifiable - this happens from accident - to which we attach no blame -
As an instance of even

2 Incurable homicide - Incurable does not mean no guilty - A man, who is not guilty enough to merit a great or even common punishment. In some cases however we attach no blame or in self defence and when the prosecution was disappointed -
goods and shelter

3 Manslaughter - 2 kinds

1 when there is an intent now to kill -

2 When a man is in pursuit of some unlawful business and death is the result of it - this is manslaughter.

Comm.
side

21 When a man with a malicious and evil intention kills a man this is murder.

Even is present of a lawful act this may be such a great carelessness as to make it manslaughter. The eng. is law makes a distinction which shows the gravity of the law -

If a man is pursuing some unlawful act while a mortal is being and kills a man this is murder -

but if the ~~man~~ is unlawful act is not amount to felony then the killing a man is present of it is involuntary manslaughter. the jury should be a over -

If a man is killed in a riot or a war or a short this is an excusable homicide unless there is

is great carelessnes this is not justifiable any excusable -

But suppose there are certain
rules which make fair play if
these are transgressed it cannot be
excusable homicide but in return
only mere laughter -

The great and important enquiry
is in an indictment for murder
was there malus animus which
is indispensably necessary to
constitute Murder -

Off a school master takes up a p. of
tongue to whip his scholars -
this instrument evidences an
unsound heart -

Answer

Some hold that a criminal under sentence of death by a false warrant or a court of incompetent jurisdiction is put to death by an officer & is murdered in the officer.

But Judge Reeve thinks it is not so for there is no malice animus.

An officer knows not what authority the court has. He presumes that there was a legal writ.

If however the officer should come to be so ~~sure~~ ^{sure} of the judgment he is punishable - if A is ordered to hang B - and B refuses to be hanged and A shoots B - it would not be guilty of murder -

There is no malitia.

If a court knowing they have no jurisdiction order a man to be hanged and a clerk of authority - they ~~have~~ are guilty of murder - and the sheriff

Also of the business of intention -
An executioner of officers under legal
authority and even death in conse-
quence of personal injury not
murder or manslaughter it is only
justifiable homicide

But if the officer seeks the oppor-
tunity to revenge himself he
may be guilty of murder or
manslaughter in the case may be
If ~~see~~ a man attempts to
escape for his person the officer
may kill him if necessary -
But this is denied by some who
say that for following an officer
may use force even unto death -
But when is the case on of the mis-
tion - all officers must take care -

But if a criminal has got out the hands
of the officer and is running away
may the officer put him to death
to prevent his escape -
Judge Reeves thinks the Officer
has no right to kill rather than
have the culprit escape - for
the Officer has no right to create
justification without a warrant from
a court of law - I mean put the
culprit to death -

Innocent homicide or Defendence

A kills B. upon the Court proce-
dure having the weight of law
the man is murder -

But a man must attempt to get
out of the way if he can -

But if a robber meets you you
may kill him immediately -

So also if A. makes attempts to get out of your
killing you may kill him instantly.
But if you cannot get out of the way you
may always kill.

B. is coming towards A. with a dangerous
weapon B. must retreat as far as
he can but if he thinks his life
will be in danger he may kill
not heret retreating.

When A. assaults B. and in the struggle
and is fighting B. kills A. unintentionally this is manslaughter.

But if A. kills B. under the like circum-
stances this is manslaughter also.

But if two are struggling and one
of them attempts to escape and
the other creates pursues him
the one that

The punishment of Common Law is
fine and imprisonment - and loss of
years -
Manslaughter - willful manslaughter
after - when a man enters his own
house - This differs from murder
only in the mode of provocation
there is no malice as in murder
if a man has had time to cool it
after the provocation, it is murder
for the law does not indulge
vengeance - but is malice animus
suppose a man has no provo-
cation but throws himself into
a passion and and in the ir-
repressible one kills another -
The authorities say this is murder
I men will get into a
diabolical passion to say it to
be punished - For is equally
dangerous to society as a murderer

though the crime may not in fact consist
entirely may not be so bad as murder
with malice aforethought, that
is deliberate and willful -

What degree of provocation will
make it manslaughter and not murder -
No other words or gestures or
no other impression of contempt
merely or not sufficient to make
it manslaughter for in them
comes it would manifestly be
murder -

A is insulted by B. A takes up
a whip and strikes him and
kills him - this is manslaughter
there is no malice animus to kill
only to hurt him -

When one ~~finds~~ another committing
adultery with his wife and kills
him - this is manslaughter

As to Deed holding the two murders
It ~~with~~ is murder from poisoning
But Judge Reeves thinks there is
not a revenge to take any life
only to preserve honor -

But I think it is murder of the
most deliberate kind -

In a third case success a prize money
being in reward for murder &c

In Can a distinction is made
between voluntary and involuntary
murders &c -

At Corn law there is no distinction
On mans thought to him is a for-
feiture of goods and imprisonment &c
and branding in the hand &c. little M
But I rec. I think the earnest

We have a Statute which makes the con-
cealment of a bastard child punish-
able as to Murder -

It must appear that the child is
born alive -

The criminal must prove the child
was born dead - otherwise it will
be presumed that the child was born
alive.

Killing an officer in the execution of
his duty -

Though the officers death happens
the sudden way this will be
murder and not manslaughter
Ald will intend to all aiding
in abetting the officer to enable
justice with his depositions or
his private ^{particulars} ~~indiv~~iduals as the
case may be.

The warrant must be legal
else the man will not be murder
this is to be understood with
limitations

If the warrant is such as the
officer could have known to
have been illegal - this would
not be murder

But if in the authors the officer
cannot tell whether the warrant
is legal or not if it is a common one
in the ~~execution~~ ^{of} killing a ~~man~~

in the Officer is murder.

The jailer may commit murder by ill
treatment

Treason

Counting my case in England is not
treason be - neither have I any
compassing the King's death &c.
as we have Henry's or any char-
acter which will answer a bill.
There is a knowing of treason
it can be a high treason
and -

1 Denying sever - which is any
attempt to levy ~~war~~ troops to
change the Government -
Is the rising against the gover-
nment of a particular State &c.
Treason? this has been my statio
and decided to be treason - however
an attempt against a single
state is an attempt against the
general government on the 11.
united of separate states -

I making new laws - establish a
new religion, to force - compelling
the people to repeal laws and to
shoot any attempt to break down
and alter the present constitution

I Spain is adducing to the Kings
enemies - adducing to civil rebels
is including - aiding or abetting
murders when greatly the same
be proved by some Court of
Spain. Overlaid on sending
unsubstantiated of the country -

I send one or more and so forth -

When I am for rebellion and the

his father may give him money for
his daily support without tears -

Joining in Combustion is not reason

At York 39 - 1801

Vol 200

Writing treason that is making plans
& it has or not published is
not treason —

Oct 11 1881
Nov 1 1881

As respect to admission of evidence
it is the most the two witnesses
in treason — But only one wit-
ness is necessary to prove an
overt act of treason —

A traitor is never a witness in
any case — civil or
criminal except treason —

Binding persons to keep the law -
Any person who has been convicted
by lawful authority for breach of
law - & may be bound for good
for good behaviour -

In some cases they must be
bound - in all such they may
e.g. ride on the streets to ride on the
L. more to be bound over

Next to notice - looking over
Dress. Looking down hair
and twitching of the mouth
lines

A person is in whom no man
knoweth whom I cometh he
is called a youth - a man

Mont 22. 6
acting 22. 6

Should meet be contempt - & must
from every other thing -

The Court is committed to jail - such
persons are generally not loon
at the using of the ~~late~~ court -
though it may be persona
linger if the court be fit -
This matter is imperfectly
may be committed in any
want of justice -

When a person be refused to stay
the order of the court is taken
the confinement does not
continue untill the using
only but while the act is
mandated to be done is actually
done - e.g. if a man refused to
marry -

So any breach of the power of court
by jailor, Sheriff &c -
So attorneys are liable for attendance

for any ambition -

Lawyers - if they do not return or
bring over, do not give them any
regard -

Any persons who wish to have a rule or
court made and will not ~~be~~ submit
by above it subjects himself to all
abuse -

17th 1421 17th 851

17th 851 17th 851

17th 851 17th 851

Bail in Criminal case

Some statutes are not mention
whether some crime shall be
bailable or not - and then are
bailable in some cases only -

17th 851 17th 851

17th 851

The punishment is never bailable 17th 851

17th 851

17th 851

What the Stat has forbidden the
justice to bail - Stat of West and
Edward 3 is common law with us

1st These 2 Stat show our law
offence when the person has con-
fessed judgment cannot get
bail - unless by a vote of the superior court -
So comp or the guilt is uncertain
It seems bail may be given
except in the excepted cases -
So breaking a person is included
So says the Stat what when the
crime is open and notorious -
for then the guilt was certain
but others say

Chas PG 104

At Com law all offences were bailable
except homicide - This means when

mean process-

To all the there is an exception-

A man confined for treason is not
to may be tried by any other
court-

10th 112th Strong 2nd

10th 112th Strong 2nd

An indictment is when a complaint
is made to the grand jury. if they
under the accusations or just
they return a true bill if not
a false bill - 18 is the usual
number though there must
be 12 votes for a bill -

April 99

Cannot find a bill true in law
and guilty in fact -

Rev 4/18

A man indicted for murder cannot be
found guilty for manslaughter

There must then be a grand jury
At least for the coroner and felony
except when entering the man
is taken out. The goods upon
him then must be a grand jury.
No man can be put to death with-
out ~~the~~ a grand jury - or by 24
men at least -

But there may a grand jury in
all crimes - for theft is felony
a not libel -

1 Solk 675'

Arrest - when the Statute makes
an offence a crime and regulates
the proceedings

Prison 72 & Show 809

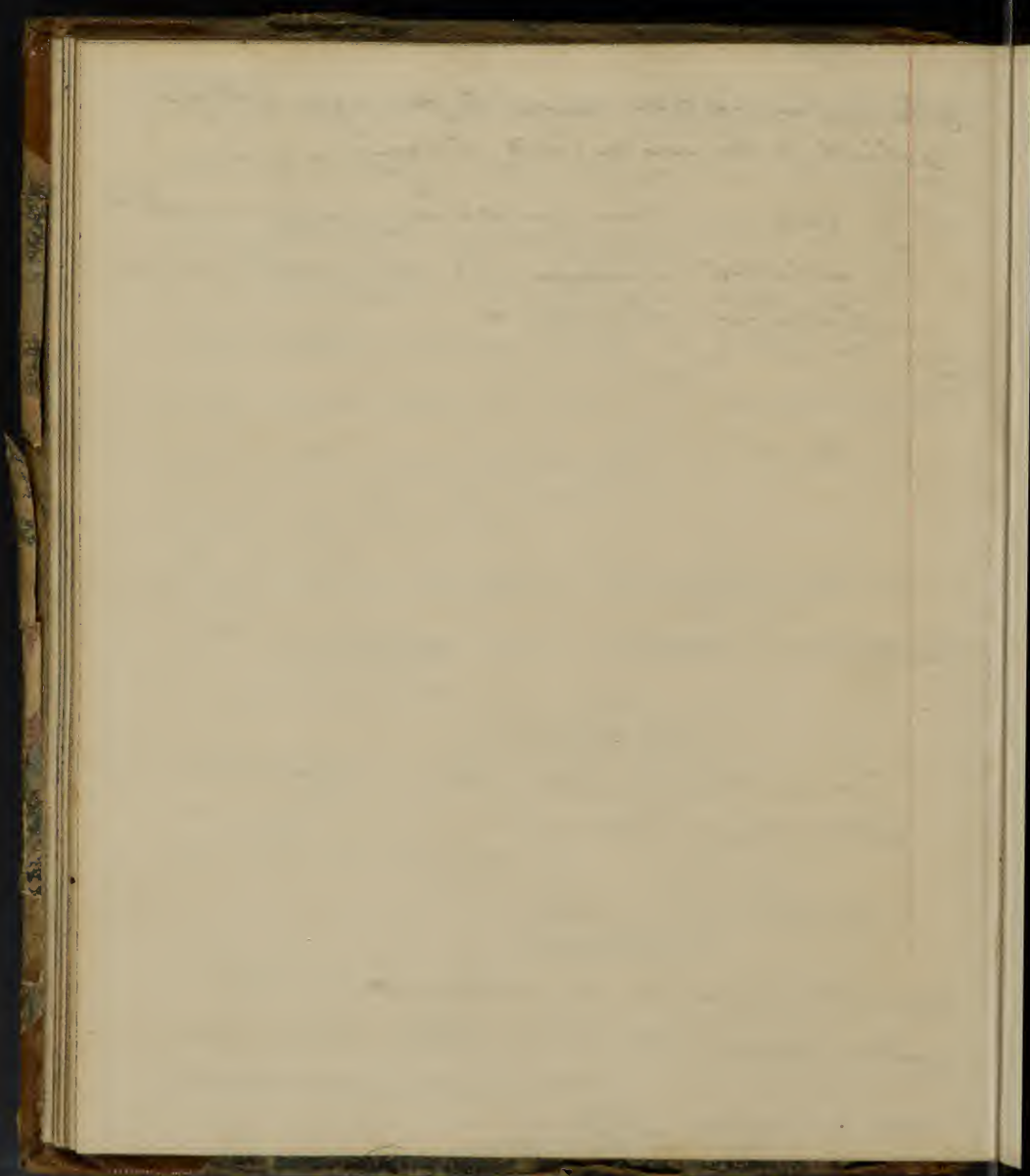
1 Solk 200

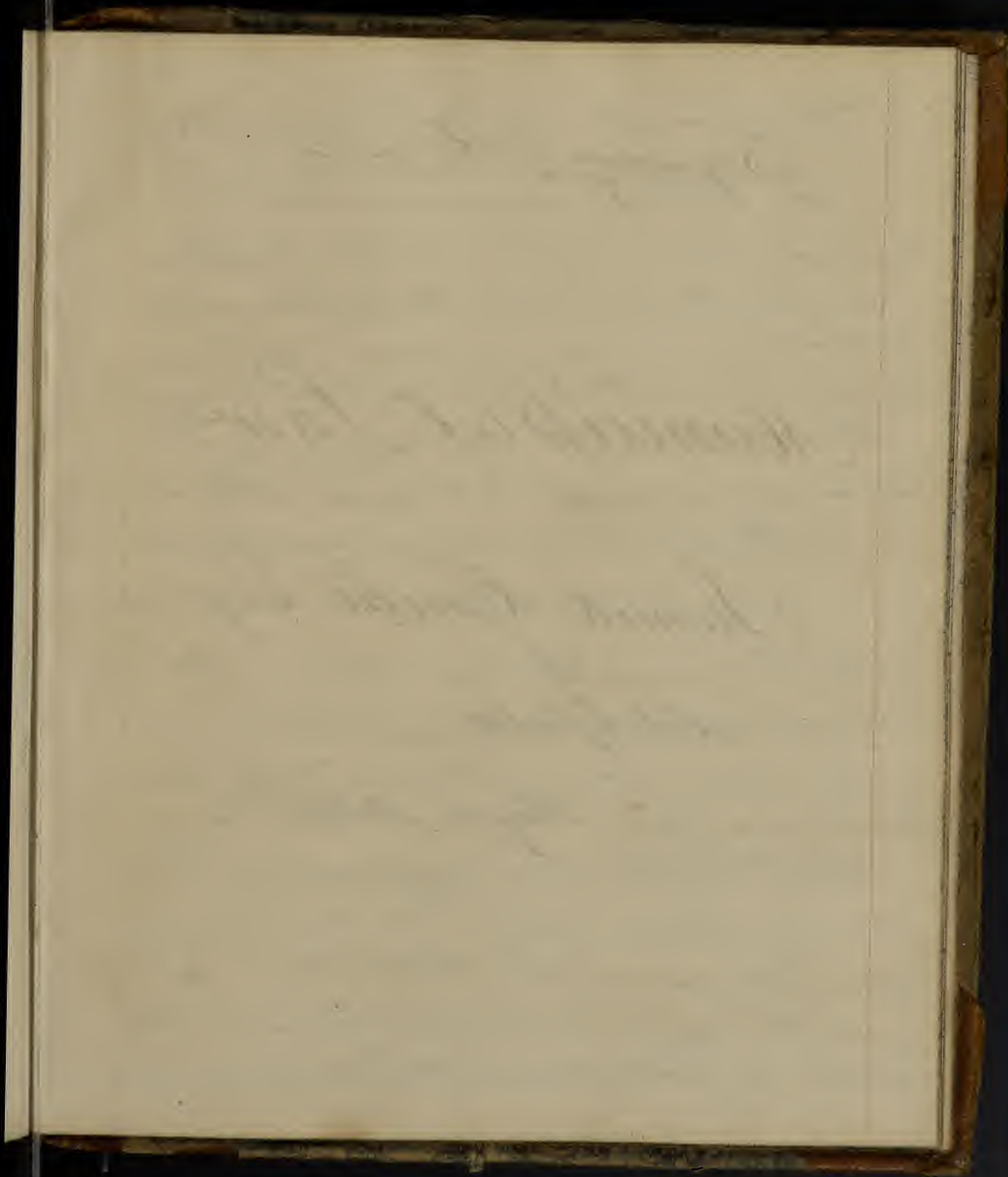
The punishment is a new penalty
and out of fine or imprisonment any
person may prosecute -

1 Stange 276' ... 53

Its information may be for any thing
about of Treason and felony.

It can be seen no grasping must
for capital crimes for nungate crimes
shipping - present &c.





Beginning of the course

Municipal Law
by
James Gould Esq
Litchfield.

May 4th 1812th

Municipal Law - beginning the
course of lecture in Littlefield -

Municipal law is a rule of civil conduct
prescribed by the supreme power in
a State commanding what is
right and prohibiting what is wrong.
Every judge must suppose that
what is right is commanded and
what is wrong is prohibited.

1864

It is a rule - and this must be per-
manent uniform and universal -
and yet neither of these attributes
to the law as commonly understood.
The permanent it is not to be per-
petual for it may expire by its
own limitation. It may then last
it is not to expire during the time
for which it purports to be made.

2 It must be uniform and universal -
that is so far as it extends it does
not mean that it must extend over
the whole realm - the customs must
not be laws which is the case

1834

Municipal law differs from

Natural law inasmuch as
the latter is a rule of moral con-
duct - and regards men in a state
of nature - the former regards them
as members of society
Rule of civil conduct prescribes

this means that it must be made
known before it can operate upon
them insofar as it is intended
to govern.

No law ought to have a retro
active effect.

Every act of the individual in civil
society should be considered

as ^{to} its criminality as it was considered
long in existence at the time when
the act was committed -
Difference between ex post facto law and
a retroactive law -

A retroactive law is any one that
has a retroactive operation with or without
a penalty.

An ex post facto law is a penal law
that has a retroactive operation -

Retroactive laws form a genus of
which ex post facto is a species.

Bull. 386 "391"

by the Supreme power in the State -
which means the legislative power

1 to 340-40

Rules of interpretation of laws -

1 That the words are to be understood accord-
ing to their most common known and
meaning

But Central terms of art must be con-
sidered by the context in the word

1 B C 89 - 2d Bar 547

6 Mass 143ⁿ

2^d When the words or phrases the
context must be considered and
the meaning of the word may be under-
stood by the connected construc-
tion - and often the probable mean-
ing can be ascertained

1 B C 60

Thayer 385 Plowden

2 B C 64, 5th Ed Royl's

An ambiguous phrase must be
considered as having meaning
with regard to the subject matter
So when two constructions are evident
regard must be had to the ~~one~~ con-
sideration

2, Bar 552ⁿ

3^d the person and spirit of the law
are to be considered - this is intention
construction

This gives us a good equity of the law -
But the equity of the law is necessary -
giving it clarity and spirit of it
in the construction -

B C says Equity is the correction
of that ⁱⁿ which the law by reason of its
universality is deficient - but this
perplexes - 1 B C 212-3rd Bloor 232
Just R 4th 1st

Two kinds of Municipal Law

Lex non scripta - and lex scripta

Lex non scripta includes 1 Consuetudo
2 Customs - 3 laws observed in parti-
cular jurisdictions -

And all these are founded on Customs
and with propriety called customary
laws - 1 B C 213-24th

Why are then called unwritten for
we read to find ^{them} - because with ori-
ginal instructions ^{it} is not ~~at~~
down in writing - the men find-
ing it written is evidence of it
only whereas written laws are laws
in laws themselves -

Then our common law derive
their authority from immem-
orial usage and general con-
sent or reception -

18 C 04-07

- 1 The Com Law. Common law is
a general law or customs extending
through the whole realm as to the
the depends also upon immemorial
usage and reception from our time
back. Some of the mind of men cannot
not in the contrary -

beginning of (1200)

- Richard I. is the period beyond which
the memory of man cannot extend
with eye of the law.

This is true is fact too ^{not} in theory -
Many customs have origination
some the period of Richard the first.

1 B C 6 B - 68"

2 B C 6 C

But when is the com law to be pursued
if unwritten - it is to be found in
the decisions of books and records
and writings of learned men - yet
it is written -

1 B C 6 B - 4 " 69"

But the book records are our main
evidence and not the law itself - Some
former decisions are overruled
which could not be done if the decision
of a court made a law -

1 B C 6 B - 40 " 71"

As we often talk about a precedent in my school.
What is a Precedent - a ~~benign~~ ^{benign} ~~judi~~ ^{judicial} ~~decision~~ ^{decision} upon the
same subject - and on merely a
void one -

Then for binding! - Is always to
be followed unless flatly absurd
or inconvient - says James Gould.

Shall a new judge differ because
I cannot on the case of the
former occasion - ~~No~~ no

Precedents are prima facie void
one - and the burden of proof
lies ^{upon} the persons who supports their
conviction - that they are void -

1 B C 29-70

"Two decisions" is the more import-
ant principle in the English law -
+ "follow decisions" 1 B C 29-75

Has not this system come into existence?
The unwritten law was built up by
courts of justice as is written law
in every other country -

Statute law can never give satis-
faction for injury unless assen-
tion by common law.

For Statute are rules formed upon
certain principles which are found
in the Common Law -

The Common Law is our ground on
of the most perfect system
that ever was formed by man -
to regulate the moral duties of men.
But what sanction has this if not
sanction by statute and enforced?
The common acceptance of it
among mankind and the necessity
upon which it was formed & given
it its authority.

But here no new Customs have
been known - because the decision
at present an only evidence of what
was long low or usage before the
memory of man or book is -

This is ~~not~~ ^{the} ~~fact~~ ^{fact} is differ-
ent -

The judicial decisions of our courts
are merely evidence of what
the principles of common
law were before the Revolution.
In fact the first principles
about which so much is said
are axioms when justice and com-
mon sense begin to appear
among mankind -

2^d branch - on Particular Customs
There are local usages - limited to
some place -

1 B 674 4th B 32872

The mode of obtaining evidence by com-
mon law is different from that of by
Particular Customs - Common law
need not be stated ~~to~~^{or} pled officially
but Particular Customs must be
pled officially as well as the facts
which bring his case within it -
The existence of a custom must be ac-
knowledged by a jury unless the existence
of the same custom is proved has been
proved before in the same court -

2^d but 208 - 1 B 6 40 Bury 350

Exception - in Gwentland and Burroughs
English - then customs need not be

pleaded - because probably the
existence of the custom on well
known to every one - if this is not
a good reason on I know of none

Microtels law is improperly called
a custom - it is common law, not
local but intended throughout
every state -

$$\begin{array}{r} \underline{3322,36''} \quad \underline{13475''} \\ \underline{238254-2,52''} \quad \underline{4,07''} \quad \sqrt{152} \\ \underline{2 \text{ bent } 285''} \quad \underline{1300''} \quad \text{comb 3,5} \\ \text{Chilly or Willie 13''} \end{array}$$

The law must never need be stated
which shows that it is not a cus-
tom which must be pleaded -

Soth 125

The law must is not liable by jury
or proved by witnesses -

except when the law is new and doubt-
ful - but on the witness is only
a dictation by the jury -

How an authoritative Dictionary is as good
as the testimony of their witnesses.

A judge would not now say as he
did, Murkitt is not the principle
of a certain law among Murkitts.

Murkitts never seen in any court
admitted to show what the principle
of the law of is among them.

They only can be invited and to
to prove what is the fact among Murkitts
and then the Court need not be troubled.
The may be local law or custom

in the law Murkitts as well as in com-
mon law - and this must be proved

O'Kelly on 2 Bur 1218 1220
10 Rep 248 512 242 118
Bul 28-104 Long 12-320 53

Latin D. Municipal Law - introduction
of Particular Customs &
rules of equality of the customs which
are found in the

1 Memorial - for the law is founded
upon customs & time out of mind -

2 Continued & interrupted the
the right must have been uninterrupted

3 Peace - expressed - from
memorial usage - implies any agreement
~~or~~ consent

4 Must be reasonable or not un-
reasonable -

5 Must be custom of long usage
the custom is void -

6 Must be compulsory - the
the customs & laws which
are compulsory - e.g. that a lord
may so much of the pleasure is to

7 Must be consistent with each other -
the pleasure upon the customs - and to be met

A one pleads another custom. the plea is
bad.

1 B C 78-78" Inst 13814

9 C 68

Customs in recognition of the com-
mon law must be construed strictly
that is they are not to be extended
with effect of a law.

This an infertile by government man
convey a ~~privilege~~ ^{privilege} but cannot
convey a lease for the ~~privilege~~
must be construed strictly

1 B C 78-78"

3 homb - Quota particular laws

Civil and canon laws which
are accepted in Ecclesiastical
military and courts of the univer-
sities - they differ from the Com. law
inasmuch as they are used only
in particular places - they differ ~~only~~
from particular laws in that they are
not local - in the operation they

are limited in their admissibility
but not as respects locality

1867-74 80-3

There are not binding in law
only by adoption in the Canon
and Common Law they ~~are~~ have
no authority -

This adoption may be by Stat
or immemorial usage -

In the former case they become
a part of written law and as
the latter case they would form
a part of the unwritten law.

The Canon and Stat laws of law
so far as they are binding on

Can they derive their authority

from immemorial usage -

The Canon law of law was not
formerly binding upon us but
now it is and cannot be resisted -

But so too - the common law is ~~attracted~~
anxious or inapplicable to our
situation that may require to
show which law we adopt for
the monarchical government
can never be applied here so long
as we remain a united Republic
Therefore the Common law of England is
never binding here in all cases
for the system has been adopted
upon by us for a long time -
There is a difference of opinion here
for the Common law is binding here
One asserts that whether the law
be a common law or different
from the English Common law
1 So far as the Common law is different
and inapplicable to our situation we
must have a ~~new~~ common law -
This arises from the necessity of the
case - the very case could not be pursued

No civil government ever did yet
exist without an unwritten law.
For no support^{the} crime can be fully
punished without the aid of com-
mon law. --- as a law is enacted against
perjury - that is against bearing
false testimony - an action may be
brought - but what is an action -
the Statute must describe it unless
there is a common law telling what
it is - and so on - what is a trespass?
what may the criminal do with
his hand - by a jury who is a jury &
them it is impossible for the
Statute unless aided by the com-
mon law to give a remedy -
2. So far as the English law is concerned
we may not be too far from saying
that objection - ~~the~~ our common
law will want immemorial usage -
but this a positive law -
on short conveyance and immemorial
consent under a common law for itself -

2 Counts of Mississippi -

Sen. Schuyler - States on the bill of
the Legislature and not merely evidence
thereon the law itself.

What are called the ancient Mississippians
have been generally considered as being
very low as much as the low lands of
ancient Mexico - when we look near the
upper our civilization - It is said in
my book books that our ancestors lived
and that so much of the laws of their
mother country is now applicable
to the present situation -

1 Jack Blount 380-84"
341-393" 136 108-8"

1 11 5000 Howell & Co -
3-2" 3-2" 3-2"

Differences between Statute

Two kinds - Public & Private
or General & Special -

1. A public Statute is one which regards
the whole community -

2. A private Statute is one which
regards individuals and private
property -

1 B & S - 80

Most public Statute do regard the
whole community - the terms
imply these -

But in many cases a Statute relating
to a class of people are held to
be general public - General

If the class of persons amount to
a genus it is public but if the
class is a species it is private -

If it does to which the Statute relates
can be divided in sub-divisions

that class is a genus - and the Stat is
a genus or public

But if the Class cannot be divided
they are a species and cannot be
Stat to them in private -

And then is useful to be used is true
in private Statute must be
read -

E.g. - If a law is made with regard
to all mechanics - this is a genus
or public -

But if the Statute is to extend to
all taylors this is a private one.
Statute respecting all public
officers is a public one -

But a law respecting things
is a private one - for the latter
cannot be revised by some can -

And a Statute respecting individuals
by name however numerous
is a private one

18 C 80 - d. C 47 P. 12. 2 bound 32
See 30 d. 10 May 20. 38

On my Policy Patent which
respect the King is public -
So the every one respecting
the Governor is public - but a
Patent respecting my own goods
is private that he happen to be Governor
So he is on behalf of the constitution -

21.677' & 628138 Nov 227

1 Nov 209

That which respect the revenue
on always public.

21.680.012 Nov 2411

613" Nov 05' 10654

That may be partly public
and partly private 21.680.011

2. declaratory of the law law in
removal of supposed defects -
there is a coordinate division
Declaratory declares what is and
has been the law -

Remains introduce some new rules - and point
out the remedy -

Declaratory ^{Plans} or comparatively few -
then Stat of Henry - '8 x on remedial

B.C. & C.

All Stat on accident into penal - and
remedial or beneficial or not penal -

A Statute inflicting a punishment is
any penal or penalty of any kind
in Penal -

The word Penalty is the same as pen
in penitent - the is the same as pen -
then means a sum of money for penalty

Domes 410 - 215

As on all laws which give higher
justice than natural justice demands
penal - they are not statutes or statutes
remedial - statutes 212th Will 125

are on the other in Stat 1

Centre all Statute what ever are
not Penae

1 Will 120 B C 7 A 7 H 259
2. Bore 250'

Statute giving costs here in
any been held as penal Statute
for costs on whole unknown
at Com law which never give
costs - and they are then for the
sea penalties -

1 Gloucester 6 Edm 1. first allowance
Cost -

1 Bore on 511 'Folk 208'

That an action Statute inflicting
a penalty is a penal Statute
an action brought up upon it by
an individual for his own benefit
is merely a civil action and the
sum it is not Penae - for this
only an action of Debt to recover
the penalty. Comp 38239' 1 Will 125'
2 H 25377 - 259'

All Statute are divided into -

Affirmative and Negative

They are always marked by their
introduction - of very little impor-
tance unless they give rise to differ-
ent construction 1 B & 89"

An Imperative Statute begins
its operation on the 1 day of the
session in which it is enacted
if no term is appointed -

This is upon the fiction that there
is no fraction of a day - and all
the day, at a session or considered
as one day - ^{new} Many acts will be
retroactive - Stat 111 222 304 2d May 39

And upon this ground that the
fraction of a day is two Statute are
enacted upon the same subject and
repugnant - In latter appeal, the
court held that latter act is the

21 Nov 66 - Mon 24. '68"

This petition has never been
adopted in Conn - but no doubt
can prove effect until all
the citizens ~~can~~ have had the
means of procuring the law
for passage - for until the
representatives have returned
home and had time to inform
their constituents of the
law as enacted

Construction of Statutes

The word is to discover the meaning
of the Law - and to assist the mind
it is observed -

1. In the construction of Statutes
2 points must be considered -
1st and for the remedy and the
2nd mischief - -

And such a construction should
be made as will remove the
mischief and advance the remedy.

It should be the principle chiefly
to be regarded - for if the ~~remedy~~ ^{remedy} is
bound to all - "If B O D B" is bound
which is necessary -

The rule is always not to be used as a
rule of construction to be applied to

the former between such or
on tenor and not tenor - that is

in construction

Penal Statute is to be construed
strictly - in one passage of course
they are and in another they
are to be construed liberally.

So in Eng - Staring - horse ^{(1 B.C. 88 3 C. 28 (1841))}
was felony - but horses are
not for this is in the statute
number - but strict construction
according to the letter is
not the object.

But Penal Statute is to be
construed strictly against
the criminal and liberally in
his favour

As against the subject it
must be strictly -

No person is to be harassed
within the ^{premises of the} State unless he

comes within the letter and spirit of
2 in his more liberally - Statute

Now the party is accused is under
the letter of the Statute need not
be pursued unless he is within
the spirit of it -

Now a subject cannot be
brought within ~~the~~ the
Statute unless he is so by the
letter and spirit -

Book 387'233

310 - How killed

This rule of that constitution, as
the subject has been shown, related
to still a good one. Book 29

Plow 80 Book 151

71 2954 Book 17 Book 11

At the repetition of the offence is pursued
and greater than the first the subject
is not to be pursued with an

increased severely unless he
shall have committed the crime
him ^{after} ~~before~~ ^{he} ~~was~~ committed
was convicted of the first.
Proch is the humanity of
the law to criminals.

If a criminal had had the
warning of a just conviction
perhaps he would not
have committed it. How 208th Male 324
lost 570 085 Be 385
2 Bust 64, 75

And the offender cannot be
subjected to the increased the
punishment unless jud-
gment is given against him
for the first - thereby he may
have been convicted yet there
is no evidence of the first committed
in the first ~~act~~

Penal laws in either operation strictly
local - From the penal laws of an
foreign state cannot be considered
as to effect the citizens in another
State -

If an offence is committed in one
county with the knowledge that he
cannot be ~~prosecuted~~ prosecuted in
another county -

But if a man steals in one
county and carries goods to
another he may be prosecuted in
either -

Stelling 79-89 Henry 613
35 K. 733ⁿ

An lion If one steals a horse in a
neighbouring State and comes into
this State by any route that he may
be tried here - There is a difference from
the to the laws - say, Greek -
For the penal law of one State is confined
to that State alone - Perhaps in the

what would be true in N.Y. would
be true in any free country in the world
and perhaps South America -

But by continuing the offer
from one State to another there
is a man in this for his life -

But besides this he may
be converted in every one of
the states through which he
goes - and a judgment
in one night touching him
cannot possibly be any less
in another State -

The the penal laws of one state
cannot operate upon citizens
of the State though they
operate upon all the persons
who are in or on in the state -
and the idea of being an Irishman
or an Englishman is not given
Still 38

When a penalty has been incurred in
by repeated offences the offender can
be prosecuted only for one offence
at a time - this is Cor. law
It is not so at Cor. law

On Inq. the case has been decided
directly the contrary - current
is arbitrary 1 foot 5' 7" Reade's
Remedial Statutes a constitution lib
erally - the latter may be enlarged
or certain to comprehend the
spirit of the law -

1 Gal 123" 11 C 71" Plend 303"
2 OS" Plend in dec 14/13 C 130
31" Perry 300"

A Statute taking away a Cor. law
remedy is to be construed strictly
against it. It abridges the liberty and
rights of a subject - yet the Statute
is Remedial 11 Mod 282 4 B & P 50

The words of an explanatory Statute
are never to be interpreted by con-
struction - if it were not so
there would be no end to construction
-

The Explanatory Statute makes
no new law but only gives an
explanation of that which has
been declared law before -

Corth 390
Dalb 536

Most Statute against frauds
are penal and remedial

Blow 87 59

Penal 215 / Blow 55

3612^a

And such an interpretation should
be given that every part may stand
and be operation - a construction
which gives effect only to part is
unimprovable -

not a saving ~~to~~ or provision as in-
ception totally repugnant to the body
of the act is absolutely ~~to be~~ void

For to give effect to the provision
would be to destroy the whole Statute

from the 2^d it is to be rejected -

1st Ex 91 Co. 4th

Aut 24th

When two states are repugnant to each other ~~and~~ ^{the} latter will repeal the former.

It is a rule of law the latter opinion is always abrogated the former. So as to Com. Con. it is said that even if there is any difference the State governs for it is later. But in theory the State is bound back to the time when or before the Com. Con. existed. The Govt. so far respects the Com. as there is no repugnance to work other

Opined 284 about 111 "115"
5, Bone 828"

Now as if there is a repugnance between two different parts of one Article - the latter part repeals the former. As this is the last sentence, will it be the longer -
"Coh. 828"

Every Stat is in its nature repeal-
able - if a Legislature cannot
repeal a law then we not the con-
sequence prevent? It may be proper
to cross old laws as the enact and
substitute new ones -

And upon the principle that
that a clause provided that
that Statute shall never be
repealed is void - for this would
take away the privilege of future
Legislature as the case may be
This is in its

4 Inst 43^r 4 Br 138th

All Legislative acts in accordance
of the power of such as the
Legislature as said is of course
said 1 B & 90th

As to refuse by refusing naming.
The law never forbids a refusal
of law by implication -
To make a refusal thus - the refusing
must be evident. if the
possibility can be a construction
to give the whole effect it should ^{be}
But laws on other respects
by implication

11 Coke 63 D. Mass 118
1 Hall up 88th

Affirmation and Negative Statutes -

It is said that an affirmative Statute
does not abrogate or repeal
the Pen. law - The Statute
It makes no difference whether
affirmative or negative in
construction.
Of ~~the~~ the rule is abating

An ~~affirmative~~ Statute may repeal
the Com. Law and a negative Statute
may not repeal it.

E. G. 6 days notice by Com. Law shall
be given for training - but a Statute
says the soldier R 12 days -
This evidently repeals -

1 B. C. 34 - 10 Nov 33 46
4 Burr 226th Com. Law
action upon Statute 2.

Then in many cases where the Statute
does not abrogate the Com. Law in
regard to the same subject matter
In such case the one law
remains remedial -

The action upon ^{State} Com. Law is called
Accumulation.

If a Penal Statute inflicts a heavier
punishment than is prescribed by
Com. Law the Com. Law is thereby
repealed or abrogated.

And yet if the Statute inflict
a higher punishment than
the Common Law - the Common
is not repealed - the Statute
punishment is only Cumu-
lation -

Plen 200 - Locke Cases

Cases 252ⁿ 10 Mod 39

2 Bur 226^m

But if a Statute inflict a higher
or lower ~~than~~ punishment
than is prescribed by a prior
Statute - the prior Statute is re-
pealed - This differs from
the rules as regards Statute
and Common Law - vide. ante.

The reason is this - As the Statute
made materia and considered

as one it is ~~impossible~~ ^{incongruous} to consider

this ~~two~~ ^{one} Statute inflicting
two different punishments -

If Englishman body is one considered
as one - but the incongruity of
prior manifestly -

Sub 252 "Year 2" 2010
21 Bm 252 "

It is also said that an affirmative
Article does not repeal an affirm-
ative ^{Article} - there is no reason in
this says Grant - the rule
is very imperfect yet some
of some persons an affirmative
Article repeals a negative Article.

^{to} The only question is "is" the latter
Article inconsistent with the
former - if it is - it repeals it
as both affirmative or negative -
if it is not repugnant it does
not repeal the former statute -
and I think so to has two views the
general rule 2 Hen B C. "1 B C 21"
after all - the intention of the Legis-

but is the ultimate criterion
in all cases -

If it appears that the Legis-
lature intended to repeal, ^{it} it
should always be refused

21 Feb 30 d. Bar D & D. 1000
232 11 600 17973

Thus - unless intended as a
case where Statute or affirmative
or negative -

If a Statute repealing a for-
mer one is itself repealed
the former Statute is revived -
For the former is repealed
only to give the latter operation
then when the latter is repealed
the former does not hold -

21 Feb 30 d. Bar D & D. 1000
232 11 600 17973

A former Statute is repealed by two Statutes
and one of those is repealed by
another repealing it remaining
in force will continue the repeal
of the first.

2 Statutes & 1 Statute O.B. 8'

Contra -

A Statute which has been
repealed has been revived - the
repealing Statute is void or
rather repealed - for here there
is the manifest intention
of the Legislature - for the
last Statute is within the same O.B.
must concern - which is the
first in fact & not O.B. & 1 Statute
O.B. 8'

Academy a very good authority -

Acts over under a Statute when its
effect is binding though then
done after it or not -

But said also by Lord - and
Baron that with some under
a Statute which has been declared
null and void cannot be justified
And under that Statute -
But this is not how says
Lords -

And now to settle no assent
Why can declare a former
Statute null and void -

For now the evidence about no
one's more worthy today may
be his own testimony -

Lord 28 37

2 Bar 638

A Statute cannot have a retrospective
operation -

It follows from this that if
a Statute after being ^{violated} ~~violated~~
is repealed before the ^{violation} ~~violation~~
is tried it cannot be punished

under either of them -

Unless there is an exception as there
now especially is in case that the old
law shall be good as to convict
and punish all violations of
that law -

For a man cannot be punished under
the first Statute because that is not
in existence at the time of giving
judgment - nor can he be punished
under the second as the latter for this
is express & definite words our law
stands -

13 Rep 451 10 How 109

Union State vs Freeman -

It is very important

If one covenants to do something
which is lawful at the time, and
before doing the something
that is dictated by another
which is to be unlawful -
the covenant is annulled

Sept 198th La Moy 31st
321st 33rd 2 Bonell or Len
21st 21st - 21st 21st 21st 26th
1st Len blony 21st

So Lentw - So if one covenants
not to do something which
by law he is bound to do -
The covenant is utterly void.
A man himself by and within
the law with his master or governor
during which time he is with
out the law or better, ~~the~~ he can be

Sept 198
may be permitted to leave his master

Yet the Constitution says no law shall
be made to impair any obligation
But could think this does not
run within the meaning of the
Constitution - which means
that no law shall be made expressly
as to impair the obligation -
but in the above mentioned case
the covenant is repeated by
a collateral intention of the
Legislature body - -

The Legislature had in view some
benefit to themselves and ^{nothing} ~~nothing~~ is
impaired the interests of individuals
enacts a law which is for the
General Good -

All men must not then con-
sist subject to such contingency
- and in private injury must be
merged in the public good

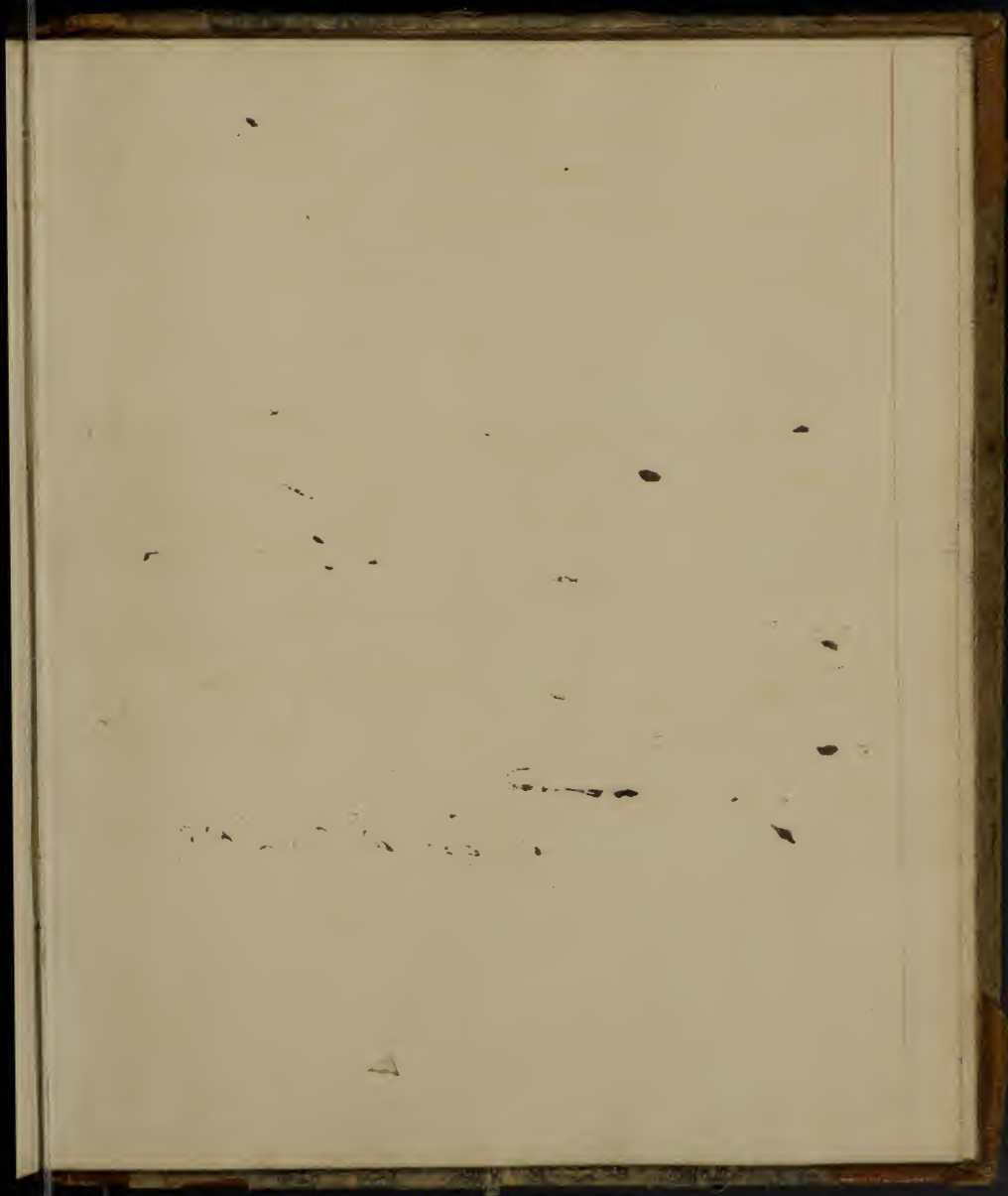
If one covenants not to do an
unlawful act, and a Statute of the
state makes that act lawful
^{the} act is now binding -

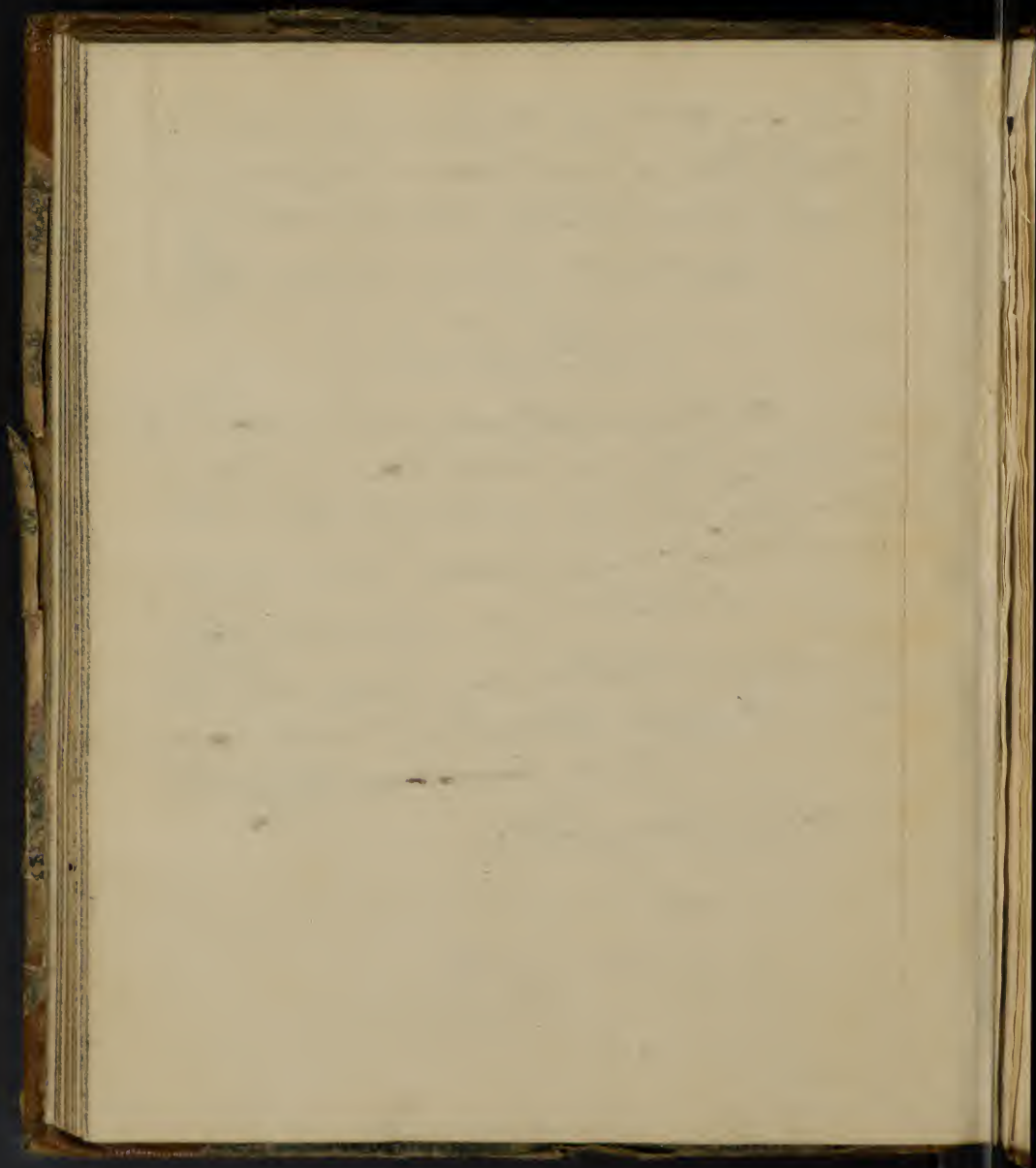
10th 198th

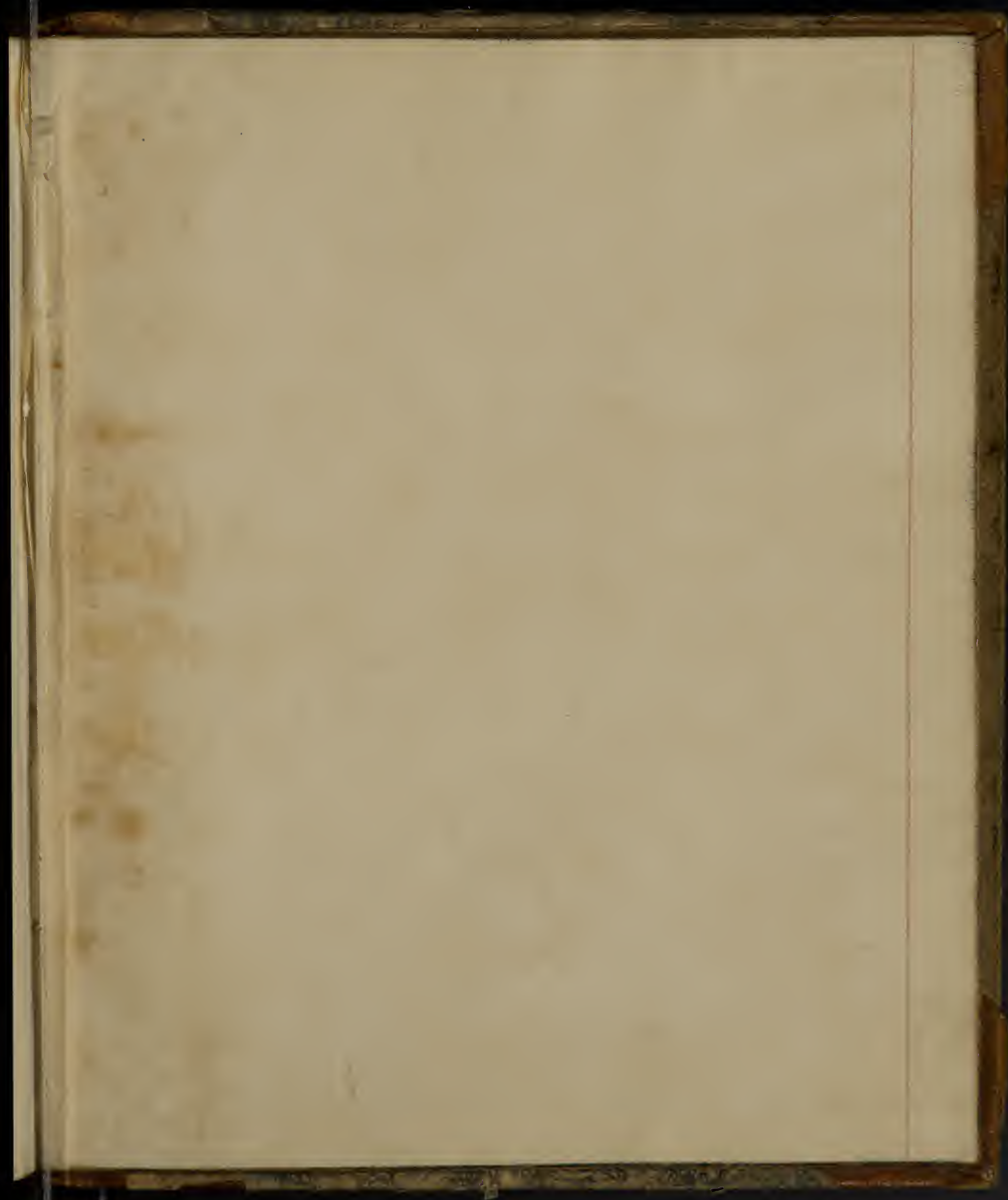
If ~~an~~ a contract prohibited is made,
when a Statute exists against
it - the refusal of the prohibi-
tory law does not set up
the former contract -

For all contracts made
against public law are abso-
lutely ~~reported~~ void -

11th Black 65th







Account of the ...
1849

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